

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Aiyanna Milligan	Team: Squad #6	CCRB Case #: 201706535	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/08/2017 5:00 PM, Thursday, 08/10/2017	Location of Incident: In the vicinity of 1994 Atlantic Avenue in Brooklyn and the 81st Precinct Stationhouse	Precinct: 81	18 Mo. SOL 2/8/2019	EO SOL 2/8/2019	
Date/Time CV Reported Thu, 08/10/2017 12:05 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/10/2017 12:05 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Soney Varghese	15438	957246	081 PCT
2. POM Abel Lovera	01160	954081	081 PCT
3. POM Joseph Sferrazza	19468	951237	081 PCT
4. POM Job Bellevue	16310	945501	081 PCT
5. SSA Ere Powers	05297	944907	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Gina Morningkelleher	01882	942235	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Soney Varghese	Discourtesy: On August 8, 2017, in the vicinity of 1994 Atlantic Avenue in Brooklyn, Police Officer Soney Varghese spoke discourteously to § 87(2)(b)	
B.POM Soney Varghese	Abuse: On August 8, 2017, in the vicinity of 1994 Atlantic Avenue in Brooklyn, Police Officer Soney Varghese threatened § 87(2)(b) with the use of force.	
C.SSA Ere Powers	Discourtesy: On August 8, 2017, at the 81st Precinct Stationhouse, Sergeant Ere Powers spoke discourteously to § 87(2)(b)	
D.SSA Ere Powers	Abuse: On August 8, 2017, at the 81st Precinct Stationhouse, Sergeant Ere Powers threatened § 87(2)(b) with the use of force.	
E.POM Job Bellevue	Force: On August 8, 2017, at the 81st Precinct Stationhouse, Police Officer Job Bellevue used physical force against § 87(2)(b)	
F.POM Job Bellevue	Discourtesy: On August 8, 2017, at the 81st Precinct Stationhouse, Police Officer Job Bellevue spoke discourteously to § 87(2)(b)	
G.POM Abel Lovera	Abuse: On August 8, 2017, at the 81st Precinct Stationhouse, Police Officer Abel Lovera threatened § 87(2)(b) with the use of force.	
H.POM Soney Varghese	Abuse: On August 8, 2017, at the 81st Precinct Stationhouse, Police Officer Soney Varghese searched the vehicle in which § 87(2)(b) was an occupant.	

Officer(s)	Allegation	Investigator Recommendation
I.POM Job Bellevue	Abuse: On August 10, 2017, at the 81st Precinct Stationhouse, Police Officer Job Bellevue refused to provide his shield number to § 87(2)(b)	
J.POM Abel Lovera	Discourtesy: On August 10, 2017, at the 81st Precinct Stationhouse, Police Officer Abel Lovera spoke discourteously to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On August 10, 2017, § 87(2)(b) filed this complaint with the Civilian Complaint Review Board via telephone.

On August 8, 2017, at approximately 5:00 PM, PO Soney Varghese and PO Job Bellevue pulled § 87(2)(b)'s vehicle over in front of 1994 Atlantic Avenue in Brooklyn for a moving violation. § 87(2)(b) was placed under arrest, at which time PO Varghese allegedly told § 87(2)(b) to “shut the fuck up,” and told PO Bellevue to use a Taser on him. A Taser was not discharged (**Allegation A: Discourtesy**, § 87(2)(g)) (**Allegation B: Abuse of Authority**, § 87(2)(g)) PO Abel Lovera and PO Joseph Sferrazza responded to the scene and PO Sferrazza transported § 87(2)(b)'s vehicle to the 81st Precinct Stationhouse.

At the desk, Sgt. Erek Powers allegedly called him an “asshole” and invited him to fight (**Allegation C: Discourtesy**, § 87(2)(g)) (**Allegation D: Abuse of Authority**, § 87(2)(g)) While § 87(2)(b) was being lodged, Sgt. Powers allegedly told him that he was screaming like a “bitch” (within **Allegation C**). PO Bellevue allegedly punched § 87(2)(b)'s chest, told him not to “fucking” touch him, and called § 87(2)(b) “fucking crazy.” (**Allegation E: Force**, § 87(2)(g)) (**Allegation F: Discourtesy**, § 87(2)(g)) In addition, PO Lovera allegedly attempted to punch him (**Allegation G: Abuse of Authority**, § 87(2)(g))

PO Varghese searched § 87(2)(b)'s vehicle (**Allegation H: Abuse of Authority**, § 87(2)(g)) While PO Bellevue guarded § 87(2)(b) he allegedly told him to “eat a dick” (within **Allegation F**).

On August 10, 2017, at approximately 11:46 AM, § 87(2)(b) returned to the stationhouse to retrieve his property, at which time PO Bellevue allegedly refused to provide his shield number to § 87(2)(b) and PO Lovera allegedly called him a “fucking clown” (**Allegation I: Abuse of Authority**, § 87(2)(g)) (**Allegation J: Discourtesy**, § 87(2)(g)) § 87(2)(g), § 87(4-b)

Video footage was obtained from surveillance cameras at the Popeyes located at 1994 Atlantic Avenue that depicts the vehicle stop. The video file can be found in IA 20 (BR 01).

Findings and Recommendations

Allegation A - Discourtesy: On August 8, 2017, in the vicinity of 1994 Atlantic Avenue in Brooklyn, Police Officer Soney Varghese spoke discourteously to § 87(2)(b)

Allegation B - Abuse of Authority: On August 8, 2017, in the vicinity of 1994 Atlantic Avenue in Brooklyn, Police Officer Soney Varghese threatened § 87(2)(b) with the use of force.

It is undisputed that § 87(2)(b)'s vehicle was stopped as it was operating with a cracked windshield. It is also undisputed that § 87(2)(b) had a visible screwdriver in his center console. After failing to comply with numerous requests to provide documentation and step out of his vehicle, due to safety concerns, he was removed from his vehicle and placed under arrest for obstruction of governmental administration, at which time there was difficulty handcuffing him.

§ 87(2)(b) who provided a statement on August 24, 2017, acknowledged that he did not comply when he was repeatedly instructed to step out of his car. As officers attempted to handcuff him, § 87(2)(b) twisted his torso, asked the officers why he was being arrested, and requested that his handcuffs be loosened. PO Varghese told § 87(2)(b) to “shut the fuck up”

and told PO Bellevue to deploy his Taser. § 87(2)(b) fell to the ground after becoming off-balance and the officers fell tripping over him (BR 02).

In § 87(2)(b)'s initial account of the incident, which he provided on August 10, 2017, the sole allegation in this case was that he was thrown to the ground by PO Varghese and PO Bellevue after being removed from his vehicle. However, during his in-person, CCRB interview § 87(2)(b) made additional allegations of discourtesies and threats of force.

PO Varghese provided testimony on October 19, 2017 in which he acknowledged that § 87(2)(b) was taken to the ground during his apprehension. § 87(2)(b) resisted arrest by clenching his arms and not giving up his hands. PO Varghese denied that they fell to the ground, that he said "shut the fuck up," to § 87(2)(b) or that he told PO Bellevue, who is Taser qualified, to use it on § 87(2)(b). PO Varghese could not recall whether PO Bellevue was in possession of a Taser at the time (BR 03).

PO Bellevue, who testified on October 20, 2017, confirmed that he was in possession of a Taser on this date. However, he provided testimony that was consistent with PO Varghese's account of the incident (BR 04).

The relevant video footage that was obtained has no audio and the distance of the camera and poor quality of the footage does not allow the investigation to determine whether these statements were made (BR 01). There were no witnesses to this portion of the incident.

§ 87(2)(g)

Allegation C - Discourtesy: On August 8, 2017, at the 81st Precinct Stationhouse, Sergeant Erik Powers spoke discourteously to § 87(2)(b)

Allegation D - Abuse of Authority: On August 8, 2017, at the 81st Precinct Stationhouse, Sergeant Erik Powers threatened § 87(2)(b) with the use of force.

§ 87(2)(b) testified that following his arrest, he was escorted into the 81st Precinct Stationhouse and brought before the desk officer, Sgt. Gina Morning-Kelleher, and Sgt. Powers, the Anti-Crime Supervisor. Sgt. Powers asked § 87(2)(b) to tell him what happened. § 87(2)(b) declined and asked to make a phone call. Sgt. Powers allegedly stated, "Oh, he's an asshole, huh," in reference to § 87(2)(b). Sgt. Powers asked § 87(2)(b) whether he was on drugs and stated that § 87(2)(b) seemed like a "crack-," before pausing and stating that § 87(2)(b) was on coke. § 87(2)(b) believed Sgt. Powers was about to call him a crack head and replied that Sgt. Powers must be the crack head. Sgt. Powers responded by challenging § 87(2)(b) to a fight. There were prisoners in the holding pen, however § 87(2)(b) was taken to an isolated, back cell area by the Anti-Crime team [which includes PO Varghese, PO Bellevue, PO Lovera, PO Sferrazza, and Sgt. Powers] upon Sgt. Powers' instructions. There were no other prisoners in the vicinity. During this time, § 87(2)(b) made audible noises of discomfort of the handcuffs and refused to fight Sgt. Powers, who allegedly stated that § 87(2)(b) was screaming like a "bitch" (BR 02).

Sgt. Powers provided testimony on November 1, 2017. Sgt. Powers confirmed that he was by the desk as § 87(2)(b)'s arrest was being logged into the Command Log. Sgt. Powers and § 87(2)(b) did not address one another. § 87(2)(b) was lodged in his own cell, away from the general population of prisoners, in the back cell area for safety purposes since he was being verbally "combative." Sgt. Powers noted that § 87(2)(b) cursed, although he could not

recall any specific remarks, and stated that he wanted to fight PO Varghese and PO Bellevue. Sgt. Powers denied stating § 87(2)(b) was on coke or referring to § 87(2)(b) as an asshole. He also denied inviting § 87(2)(b) to fight or stating that he was screaming like a “bitch” (BR 05).

Sgt. Morning-Kelleher provided testimony on November 3, 2017. Sgt. Morning-Kelleher, who donated blood that day, had no recollection of § 87(2)(b) or documenting his arrest in the Command Log. The blood drive was set up outside, adjacent to the stationhouse. Upon reviewing the relevant command log entry, Sgt. Morning-Kelleher noted that only a portion of it was in her handwriting. Sgt. Morning-Kelleher could not recall whether she remained at the desk to donate blood or another member of service temporarily relieved her (BR 06).

PO Varghese testified that he could not recall whether Sgt. Morning-Kelleher was the desk officer on duty when § 87(2)(b) was brought before the desk and he did not have a recollection of Sgt. Powers being present while § 87(2)(b)'s arrest was being logged in the Command Log or lodged in a cell. PO Varghese denied witnessing Sgt. Powers take any of the aforementioned actions (BR 03).

PO Bellevue, PO Lovera, who testified on October 27, 2017, and PO Sferrazza, who testified on November 22, 2017, provided testimony that was consistent with PO Varghese's account of the incident (BR 04, BR 07, and BR 08).

The 81st Precinct Command Log notes § 87(2)(b)'s arrest in an entry made at 5:20 PM. There is no entry noting that Sgt. Kelleher was temporarily relieved by another officer (BR 09). Sgt. Morning-Kelleher's memo book noted “Blood Drive” in an entry made at 5:30 PM (BR 10).

The 81st Precinct Prisoner Holding Pen Roster confirmed that there were other prisoners noted on the roster around the time of § 87(2)(b)'s arrest, however it is undisputed that § 87(2)(b) was brought to a cell area isolated from the other prisoners in the holding pen (BR 11).

§ 87(2)(b), § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation E - Force: On August 8, 2017, at the 81st Precinct Stationhouse, Police Officer Job Bellevue used physical force against § 87(2)(b)

Allegation F - Discourtesy: On August 8, 2017, at the 81st Precinct Stationhouse, Police Officer Job Bellevue spoke discourteously to § 87(2)(b)

Allegation G - Abuse of Authority: On August 8, 2017, at the 81st Precinct Stationhouse, Police Officer Abel Lovera threatened § 87(2)(b) with the use of force.

§ 87(2)(b) testified that as he was placed in a cell, the entire Anti-Crime team remained present. As § 87(2)(b)'s handcuffs were removed, PO Bellevue allegedly punched § 87(2)(b)'s chest, through the bars of his cell, and stated, “Don’t fucking touch me...Are you fucking crazy?” § 87(2)(b) was confused by this statement since it was PO Bellevue who initiated the contact when he brushed against § 87(2)(b)'s hand. After his handcuffs were removed, § 87(2)(b) displayed his swollen wrists through the bars as evidence that the handcuffs were tight. PO Lovera allegedly swung his fist towards § 87(2)(b)'s face, but it did not make contact with § 87(2)(b). Later that evening, § 87(2)(b) asked PO Bellevue to make a phone call. PO Bellevue allegedly replied, “Go eat a dick,” (BR 02).

PO Bellevue denied punching § 87(2)(b) saying “Don’t fucking touch me...Are you fucking crazy,” or observing PO Lovera swing his fist towards § 87(2)(b). He did not recall there being a struggle when § 87(2)(b)'s handcuffs were removed. PO Bellevue could not

recall who else was in the cell area, aside from PO Sferrazza and PO Lovera, or what specific actions they took. In addition, PO Bellevue denied being § 87(2)(b)'s guarding MOS while he was in a cell (BR 04).

PO Lovera testified that he was the only officer to make physical contact with § 87(2)(b) while he was being lodged. However, this contact was limited to PO Lovera removing § 87(2)(b)'s handcuffs. The handcuffs were difficult to remove because § 87(2)(b)'s frequent movements caused them to naturally tighten. PO Lovera left the cell area afterwards. PO Lovera did not attempt to punch § 87(2)(b). § 87(2)(b) did not observe PO Bellevue do so, and denied hearing verbal discourtesies (BR 07).

PO Varghese testified that he could not recall whether any officers besides PO Bellevue were present while § 87(2)(b) was placed in a cell and did not observe Sgt. Powers in the cell area. PO Varghese did not encounter any difficulties while lodging § 87(2)(b) in the cells and described § 87(2)(b)'s demeanor as compliant. PO Varghese did not hear PO Bellevue curse at, or in reference to, § 87(2)(b) at any point during the incident and did not observe PO Lovera attempt to punch § 87(2)(b). PO Varghese did not observe any profanity being used by any officers in the presence of § 87(2)(b). Neither PO Varghese nor PO Bellevue guarded § 87(2)(b) while he was in a cell (BR 03).

PO Sferrazza provided testimony that was consistent with PO Varghese with the exception that he believed that the entire Anti-Crime team, excluding Sgt. Powers, was present in the cell area while § 87(2)(b) was being lodged in a cell (BR 08).

Sgt. Powers denied being present in the cell area while § 87(2)(b) was being lodged. Sgt. Powers interviewed PO Varghese and PO Bellevue about § 87(2)(b)'s arrest after he was lodged and did not learn they encountered any difficulties while doing so (BR 05).

The 81st Precinct Prisoner Holding Pen Roster lists PO Varghese as § 87(2)(b)'s guarding MOS (BR 11).

There were no witnesses or video footage for this portion of the incident.

The officers provided inconsistent accounts of who was present in the cell area and their roles while there. None of their accounts corroborated § 87(2)(b)'s allegations.

§ 87(2)(b), § 87(2)(g)

Allegation H - Abuse of Authority: On August 8, 2017, at the 81st Precinct Stationhouse, Police Officer Soney Varghese searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that PO Varghese performed an inventory search of § 87(2)(b)'s vehicle, which was not searched at the scene of § 87(2)(b)'s arrest.

§ 87(2)(b) testified that, while in the cell area, PO Varghese informed him that his property was being vouchered and he was being charged with possession of a weapon in regards to a small knife that was found in his vehicle pursuant to an inventory search performed at the stationhouse. On August 9, 2017, § 87(2)(b) was transported to Central Booking, at which time the prisoner van he was in became involved in a motor vehicle accident. Neither § 87(2)(b) nor the other prisoners were wearing a seatbelt. On August 10, 2017, § 87(2)(b) returned to the stationhouse to retrieve his vehicle. When his vehicle was released to him, § 87(2)(b) noticed that it was in worse condition than it was at the time of his arrest (BR 02).

On September 11, 2017, an OCD referral was made to address the failure to properly secure individuals in the prisoner van under CCRB Case 201707409. On January 2, 2018 an OCD referral was made to address the allegation that § 87(2)(b)'s vehicle was returned to him, with damage to its interior, under CCRB Case 201800015.

PO Varghese testified that § 87(2)(b)'s vehicle was brought back to the stationhouse for safekeeping purposes, since § 87(2)(b) was arrested as the result of a vehicle stop and had refused to provide his license, registration, and insurance. Once § 87(2)(b) was lodged in a cell, PO Varghese performed an inventory search which he estimated lasted 10 to 15 minutes. No one assisted PO Varghese (BR 03).

According to Property Clerk Invoice No. § 87(2)(b) § 87(2)(b)'s vehicle was vouchered for safekeeping purposes. The document, which was prepared by PO Varghese, notes PO Varghese as the Invoicing Officer. Remarks, made at 11:47 PM on the arrest date, note that the vehicle had a suspended registration and no valid insurance (BR 12).

Patrol Guide Procedure 218-13 states that whenever automobiles come into the custody of the department, an inventory search, in which the interior of the vehicle will be thoroughly searched, will be conducted to protect property, ensure against unwarranted claims of theft, and protect individuals against dangerous instrumentalities (BR 13).

§ 87(2)(b), § 87(2)(g)
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§ 87(2)(b).

Allegation I - Abuse of Authority: On August 10, 2017, at the 81st Precinct Stationhouse, Police Officer Job Bellevue refused to provide his shield number to § 87(2)(b)

Allegation J - Discourtesy: On August 10, 2017, at the 81st Precinct Stationhouse, Police Officer Abel Lovera spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that when he returned to the stationhouse on August 10, 2017, he noticed the entire Anti-Crime team, which includes PO Varghese, PO Bellevue, PO Lovera, PO Sferrazza, and Sgt. Powers. § 87(2)(b) approached PO Bellevue and asked for his shield number. PO Bellevue did not provide it and said that § 87(2)(b) already had it. § 87(2)(b) exited the stationhouse. As § 87(2)(b) observed his vehicle's condition, PO Lovera, who was standing in front of the stationhouse, called him a "fucking clown." § 87(2)(b) asked PO Lovera what he was going to do. PO Lovera began to approach § 87(2)(b) however PO Sferrazza told PO Lovera it was not worth it and they got in an RMP (BR 02).

PO Bellevue testified that on the date of § 87(2)(b)'s arrest, he verbally provided his name and shield number to him as he was being transported to the stationhouse. On August 10, 2017, as he was exiting the stationhouse, PO Bellevue observed § 87(2)(b) at the precinct's help window, located at the front of the stationhouse. PO Bellevue could not recall whether he exited the stationhouse through the front or side, but he believed he could have been accompanied by PO Lovera and PO Varghese. As PO Bellevue headed towards an RMP, § 87(2)(b) followed and made discourteous remarks, which PO Bellevue could not recall. PO Bellevue ignored § 87(2)(b) and left the scene. Neither he nor other officers engaged § 87(2)(b) in any way (BR 04).

PO Lovera observed § 87(2)(b) outside of the stationhouse, at which time he believed he was with PO Sferrazza, but could not recall with certainty. § 87(2)(b) appeared upset and

called them “assholes.” PO Lovera denied calling § 87(2)(b) a “fucking clown,” and did not recall any officers cursing in § 87(2)(b)’s presence or § 87(2)(b) asking PO Bellevue for his shield number (BR 07).

PO Sferrazza provided testimony that was consistent with PO Lovera’s account of the incident with the exception that he did not recall § 87(2)(b) using any profanity (BR 08).

Sgt. Powers provided testimony that was consistent with PO Sferrazza’s account of the incident (BR 05).

PO Varghese testified that on August 10, 2017, he had court in the morning and worked out of the stationhouse between the hours of 11:00 AM and 4:35 PM. PO Varghese did not recall observing § 87(2)(b) (BR 03).

PO Varghese did not recall interacting with § 87(2)(b) on this date. The remaining officers provided inconsistent accounts regarding who was present when they observed § 87(2)(b) and the extent of their interactions with him. None of their accounts corroborated § 87(2)(b)’s allegations.

§ 87(2)(b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Varghese has been a member of the NYPD for 3 years and has had 6 other allegations pleaded against him in 4 other cases (BR 18). PO Varghese’s prior CCRB allegations offer no relevant pattern and none of them were substantiated. Three of his allegations have outcomes that are pending.

- PO Bellevue has been a member of the NYPD for 9 years and has had 19 other allegations pleaded against him in 9 other cases (BR 19). § 87(2)(g) none of them were substantiated.
- PO Lovera has been a member of the NYPD for 4 years and has had 1 other allegation pleaded against him in 1 other case (BR 20). PO Lovera's prior allegation was exonerated § 87(2)(g).
- Sgt. Powers has been a member of the NYPD for 10 years and has had 29 other allegations pleaded against him in 14 other cases (BR 21). § 87(2)(g). One of his allegations has an outcome that is pending.
 - In CCRB Case 201407556, the Board substantiated and recommended Charges for a premises entered and searched allegation. The NYPD Disposition was ultimately APU: Not Guilty.
 - In CCRB Case 201606619, the Board substantiated and recommended Command Discipline for premises entered and searched, and authorizing the issuance of a summons allegations. The NYPD Disposition is currently unknown.
- PO Sferrazza has been a member of the NYPD for 6 years and has had 2 other allegations pleaded against him in 1 other case (BR 22). § 87(2)(g) none of them were substantiated.

Mediation, Civil and Criminal Histories

- § 87(2)(b) was the only complainant/victim in this case. Due to § 87(2)(b)'s arrest, this complaint was not suitable for mediation.
- § 87(2)(b)
- A FOIL request for any Notice of Claim filed by § 87(2)(b) was submitted on December 4, 2017 and will be added to the case file upon its return.

Squad No.: 6

Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date